

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

RICHARD N. BELL,)	
)	
Plaintiff,)	
)	
vs.)	No. 1:11-cv-00766-TWP-DKL
)	1:13-CV-798-TWP-DKL
CAMERON TAYLOR, et al)	AND
)	1:13-CV-799-TWP-DKL
Defendants.)	AND
)	1:13-CV-800-TWP-DKL

ORDER TO SEVER CLAIMS

This matter is before the Court following an agreement among the parties present for the May 14, 2013, Initial Pretrial Conference to sever this lawsuit into four separate causes of action. The Court hereby orders the claims be severed pursuant to Rule 21 of the Federal Rules of Civil Procedure based upon the following:

I. The Defendants

This is a copyright infringement action stemming from the alleged unauthorized use of a photograph of the Indianapolis skyline. Plaintiff Bell took the photograph in 2000 and now alleges that Defendants have used it in various ways without authorization. [Dkt. 1].

The 22 named Defendants in this case generally fall into four groups. The first group consists of Defendants Cameron Taylor, Taylor Computer Solutions, Insurance Concepts, Fred O'Brien and Shanna Cheatem (collectively the "Taylor Defendants"). Each of these Defendants are represented by counsel John W. Nelson.

The second group consists of pro se Defendants Ben McCann and Neil Cox, who are related by the factual allegations set forth by Plaintiff. Defendant McCann operates the website IndyChristianMedia.com. Defendant Cox allegedly posted Plaintiff's photograph on this website.

The third group consists of Defendant Mark Arruda, a Massachusetts resident who alleges this Court lacks personal jurisdiction over him and has a Motion to Dismiss pending.

The final group consists of numerous Defendants who either have not been served and are subject to dismissal pursuant to Rule 4 (m), or who have been served but have not filed an appearance (collectively the "Other Defendants").

II. Severance of Claims

Pursuant to Rule 21, Plaintiff's claims are now severed into four separate cases. Once the new matters have been established, the Court will issue further instructions regarding the filing of amended complaints setting forth Plaintiff's claims where necessary.

The Clerk is instructed as follows:

1. The Nature of Suit code of the new actions to be opened is 820 Copyright.
2. The Cause of Action code of the new civil actions to be opened is 17:101 Copyright Infringement.
3. The assignment of judicial officers in the new civil actions shall be as currently exists in this case. Thus the new civil actions are to be assigned to District Judge Tanya W. Pratt and the undersigned Magistrate Judge.

4. The Other Defendants will remain in the current action. Therefore the parties in the current action will be:

Plaintiff: Richard N. Bell
Defendants: Indy Cleaning Pros
James Allen
Karen Allen
AILS
Homeroute
Foreclosure Warehouse.com Inc.
Infored Media LLC
Redouane Chioua
AboNet
Cities Online
Shelly Rupel
MAXXCLEAN LLC
National Communications Company LLC

5. The parties in the new action against the Taylor Defendants are:

Plaintiff: Richard N. Bell
Defendants: Cameron Taylor
Taylor Computer Solutions
Insurance Concepts
Fred O'Brien
Shanna Cheatem

6. The parties in the new action against Defendants McCann and Cox are:

Plaintiff: Richard N. Bell
Defendants: Ben McCann
Neil Cox

7. The parties in the new action against Defendant Arruda are:

Plaintiff: Richard N. Bell
Defendant: Mark Arruda

8. A copy of this Order shall be docketed in each action.

9. The following pleadings in this action shall be re-docketed in each of the new civil actions:
 - 1.) Plaintiff's Complaint filed on June 7, 2011 (Dkt. 1)
 - 2.) Plaintiff's Amended Complaint filed on June 15, 2011 (Dkt. 9)
 - 3.) Plaintiff's Second Amended Complaint filed on January 12, 2012 (Dkt. 32)
 - 4.) Plaintiff's Third Amended Complaint filed on December 6, 2012 (Dkt. 64)
10. Defendant McCann's Motion to Dismiss filed on May 14, 2013 (Dkt. 125) shall be re-docketed in the new action against Defendants McCann and Cox.
11. Defendant Arruda's Motion to Dismiss filed on January 14, 2013 (Dkt. 95) and Brief/Memorandum in Support of Motion to Dismiss (Dkt. 98) shall be re-docketed in the new action against Defendant Arruda.
12. The Answer to Third Amended Complaint filed by the Taylor Defendants on April 3, 2013 (Dkt. 117) shall be re-docketed in the new action against the Taylor Defendants.
13. If any party seeks the re-docketing of items not listed above, a request for such action may be filed in the newly-opened actions.
14. Defendants may not assert a statute of limitations defense against the claims asserted by Plaintiff in the newly opened actions that would not have been available to Defendants in Case No. 1:11-cv-00766-TWP-DKL.
15. Defendants' Motion to Sever [Dkt. 124] is hereby DENIED AS MOOT.

IT IS SO ORDERED this 05/15/2013



Denise K. LaRue
United States Magistrate Judge
Southern District of Indiana

Distribution:

BEN MCCANN
705 N. Shore Boulevard
Franklin, IN 46131

NEIL COX
131 Walter Street
Carmel, IN 46032

Richard N. Bell
BELL LAW FIRM
richbell@comcast.net

David F. Hurley
HURLEY & HURLEY PC
dhurley@hurley-legal.net

John W. Nelson
LAW OFFICE OF JOHN NELSON
jwnelso1@yahoo.com